IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 9TH FEBRUARY 2007 / 20TH MAGHA 1928

WP(C).No. 3444 of 2007(I)

PETITIONER: PETITIONERS
---

1. THOMAS GEORGE, MANAGING PARTNER,
HOTEL ZION, KOZHENCHERY,
PATHANAMTHITTA DISTRICT.

2. MARY KURIAN, MANAGING PARTNER,
HOTEL PARK, KOZHENCHERY,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.THOMAS ABRAHAM
SRI.K.B.ARUNKUMAR

RESPONDENTS:
---

1. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY FOR EXCISE DEPARTMENT,
GOVERNMENT OF KERALA, SECRETARIAT,
TRIVANDRUM.

2. COMMISSIONER OF EXCISE,
TRIVANDRUM.

3. ASSISTANT EXCISE COMMISSIONER,
PATHANAMTHITTA.

4. DISTRICT COLLECTOR, PATHANAMTHITTA.

5. DISTRICT SUPERINTENDENT OF POLICE,
PATHANAMTHITTA.

BY GOVT. PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.3444 OF 2007

Dated this the 9th day of February, 2007

JUDGMENT

Petitioners are owners of hotels, who have bar licence under the Abkari Laws. They apprehend that the competent District Collector/District Magistrate or the Assistant District Collector, as the case may be, may exercise authority under Section 54 of the Kerala Abakri Act and therefore, closure of bars attached to hotels during the Maramon Convention being held at Kozhencherry in Pathanamthitta district. This issue had earlier gained attention of this Court resulting in Ext.P1 judgment by the Division Bench, wherein, it was noticed that more apprehension of certain fact situations are insufficient to make an order under Section 54 of the Act and still further, that the statutory power of the competent authority under Section 54 of the Act cannot curbed by an order preventing exercising of such power.

2. Having regard to the contents of Ext.P1, it acts as a comprehensive guideline for exercise of power under Section 54, particularly in relation to any request for an order under Section 54 of the Abkari Act in connection with the Maramon Convention. So much so, mere apprehension which would be nothing but misplaced norms, going by the contents of Ext.P1, would not constitute sufficient jurisdictional fact for the statutory authority to issue an order under Section 54. This aspect will obviously have to be considered by any competent authority if at all it decides to consider where any order could be issued in exercise of authority under Section 54 of the Abkari Act in relation to closure of bars in connection with the Maramon Convention.

With these directions, this writ petition is disposed of.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.